

UNITED STATES TAX COURT
WASHINGTON, DC 20217

MUFUTAU SANNI,)	CMS
)	
Petitioner,)	
)	
v.)	Docket No. 13190-13.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	

ORDER

Pursuant to the opinion of the Court as set forth in the pages of the transcript of the proceedings before Judge David Gustafson at Washington, D.C., on April 18, 2014, containing his oral findings of fact and opinion, it is

ORDERED that the Clerk of the Court shall transmit herewith to petitioner and to respondent a copy of the pages of the transcript of the trial in the above case before Judge Gustafson at Washington, D.C., containing his oral findings of fact and opinion rendered at the trial session at which the case was heard.

In accordance with the oral findings of fact and opinion, decision will be entered under Rule 155.

(Signed) David Gustafson
Judge

Dated: Washington, D.C.
April 29, 2014

SERVED Apr 30 2014

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1 Bench Opinion by Judge David Gustafson

2 April 14, 2014

3 Mufutau Sanni v. Commissioner

4 Docket No. 13190-13

5 THE COURT: The Court has decided to render
6 the following as its oral Findings of Fact and
7 Opinion in this case. This Bench Opinion is made
8 pursuant to the authority granted by section 7459(b)
9 of the Internal Revenue Code, and Tax Court Rule 152;
10 and it shall not be relied on as precedent in any
11 other case.

12 By a notice of deficiency dated March 15,
13 2013 (Ex. 3-J), respondent determined deficiencies in
14 the Federal income tax of petitioner Mufutau Sanni
15 for the five years 2006 through 2010, plus additions
16 to tax and penalties. The parties have settled many
17 of the adjustments reflected in the notice of
18 deficiency, leaving, as the only issues for us to
19 decide, whether certain bank deposits are taxable
20 income (as respondent contends) or are instead non-
21 taxable loan proceeds (as petitioner contends) and
22 whether a portion of income that petitioner realized
23 by reason of third parties' payments to petitioner's
24 lender is deductible as interest. For the reasons
25 explained below, we hold that the bank deposits are

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1 largely taxable income, and that a portion of the
2 third-party payments is deductible interest.

3 Trial of this case was conducted on April 16
4 and 17, 2014, in Washington, D.C. Petitioner was
5 represented by Thomas F. DeCaro, Jr., and respondent
6 was represented by Archana Ravindranath and Scott A.
7 Hovey.

8 FINDINGS OF FACT

9 Mr. Sanni's real estate activity

10 During the years at issue Mr. Sanni worked
11 in the real estate industry. He owned a number of
12 properties and engaged in several businesses. (Stip.
13 9-13.) He entered into various transactions with
14 Lateefat Coker. Mr. Sanni did not keep books and
15 records for any of his business activities in these
16 years. (Stip. 50.)

17 Mr. Sanni's loans and bank deposits

18 Mr. Sanni commingled funds from all of his
19 businesses into several bank accounts. (Stip. 13.)
20 To conduct his businesses, Mr. Sanni borrowed money
21 from banks and several private lenders, including
22 Douglas Goldsten and others. Some of the deposits
23 into his accounts were the non-taxable proceeds of
24 loans, and the parties have settled the character of
25 some such deposits.

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1 Of the deposits whose taxable or non-
2 taxable character was still in dispute at the time of
3 trial, there were only two non-taxable amounts:
4 first, a \$4,000 deposit made on February 27, 2007
5 (which was a loan made by NE Hunt Place, Inc.; see
6 Ex. 35-J, p. 201; Ex. 58-P, check #1010); and second,
7 a \$10,000 deposit made on October 14, 2010 (which was DA
8 a draw on a loan made by James Schneider; see Ex. 35-
9 J, p. 220; Ex. 41-J, p. 670). None of the deposits
10 that are derived from (or that are alleged to have
11 been derived from) Lateefat Coker were proved to be
12 loan proceeds, and we therefore find that they were
13 taxable income. Except for the amounts stipulated by
14 respondent to be non-taxable, none of the deposits
15 that are derived from (or that are alleged to have
16 been derived from) Douglas Goldsten or his entity
17 General Funding Corporation were proved to be loan
18 proceeds, and we therefore find that they were
19 taxable income.

20 Payoff of Goldsten loan

21 On October 31, 2008, Douglas Goldsten lent
22 Mr. Sanni \$510,830. (Stip. 31.) By October 27,
23 2009, the balance of that debt with interest had
24 grown to \$629,461. (Ex. 49-J.) Mr. Sanni paid off
25 that loan with the proceeds from two real estate

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1 sales. (Ex. 47-J.) Mr. Sanni arranged that, in the
2 closings of those sales, proceeds totaling the amount
3 that he owed to Mr. Goldsten would be paid directly
4 to Mr. Goldsten in order to pay off the loan. Those
5 proceeds were taxable income to Mr. Sanni, but this
6 arrangement made it seem that the payment was not
7 apparently attributable to him. Of the total paid
8 off (i.e., \$629,461), the interest component was
9 \$118,631.

10 Tax returns and audit

11 Mr. Sanni filed Federal income tax returns
12 for the years 2007 and 2009, but did not report all
13 his income on those returns, and he filed no Federal
14 income tax returns for the years 2006, 2008, and
15 2010. (Stip. 2-7).

16 The IRS commenced an examination of Mr.
17 Sanni. It identified at least some of the banks in
18 which he maintained accounts, obtained from those
19 banks monthly statements for those accounts,
20 performed an analysis of the deposits that were made
21 into those accounts for the years at issue, and
22 determined that many of the deposits were taxable
23 income that Mr. Sanni had not reported. (Stip. 55;
24 Ex. 35-J).

25 On March 15, 2013, the IRS issued its

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1 notice of deficiency for those five years; and Mr.
2 Sanni timely filed his petition on June 11, 2013.
3 Our record does not show where Mr. Sanni resided when
4 he filed his petition.

OPINION

6 The IRS's determination is presumed correct,
7 and the taxpayer bears the burden to prove any
8 adjustment to the income the IRS determined and to
9 prove his entitlement to any deductions he claims.
10 Rule 142(a); Welch v. Helvering, 290 U.S. 111, 115
11 (1933).

12 I. Bank deposit income

13 The taxpayer bears the responsibility to
14 maintain books and records that are sufficient to
15 establish his income. See sec. 6001; 26 C.F.R. sec.
16 1.446-1(a)(4). Mr. Sanni did not do so.

17 When a taxpayer fails to keep adequate
18 books and records, the Commissioner is authorized by
19 section 446 to determine the existence and amount of
20 the taxpayer's income by any method that clearly
21 reflects income. See Holland v. United States, 348
22 U.S. 121, 130-132 (1954). A bank deposit is prima
23 facie evidence of income, and a bank deposits
24 analysis is a method of income reconstruction that
25 this Court has long accepted. Tokarski v.

1 Commissioner, 87 T.C. 74, 77 (1986). When a taxpayer
2 keeps inadequate or incomplete books or records and
3 has large bank deposits, the IRS is not acting
4 arbitrarily or capriciously by resorting to the bank
5 deposits method. See DiLeo v. Commissioner, 96 T.C.
6 858, 867-868 (1991), aff'd, 959 F.2d 16 (2d Cir.
7 1992).

8 The bank deposits method of reconstruction
9 assumes that all of the money deposited into a
10 taxpayer's account is taxable income unless the
11 taxpayer can show that the deposits are not taxable.
12 The IRS need not show a likely source of the income
13 when using the bank deposits method, but the IRS must
14 take into account any nontaxable items or deductible
15 expenses of which the IRS has knowledge. See Price
16 v. United States, 335 F.2d 671, 677 (5th Cir. 1964).

17 At trial Mr. Sanni claimed that certain
18 deposits were non-taxable amounts. However, this
19 claim was largely undocumented. For example, he
20 contended that very substantial amounts were loans
21 from Ms. Coker, but there were no loan agreements
22 whatsoever between the two of them. Though both
23 testified, neither stated what interest rates the
24 supposed loans bore nor the period over which they
25 would be paid. A so-called "journal" in which Ms.

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1 Coker supposedly kept track of loans to Mr. Sanni was
2 an indecipherable jumble, not even in chronological
3 order. Although Mr. Sanni evoked testimony from Ms.
4 Coker to ostensibly show that a March 2006 deposit of
5 \$249,000 was the proceeds of a loan by Ms. Coker to
6 Ms. Sanni, she insisted that she made the loan by
7 signing over to Mr. Sanni a check payable to her,
8 which he deposited into his account. However, the
9 check by which she allegedly made the loan was not
10 for \$249,000 but was for a different amount --
11 \$267,933.⁷_A. (Ex. 46-P, p. 829.) Her testimony was DE
12 not at all credible.

13 Supposed loan proceeds from Mr. Goldsten
14 (other than those the IRS stipulated as non-taxable)
15 depend on the uncorroborated testimony of Mr. Sanni.
16 Only his testimony identifies some of the deposits as
17 being from Mr. Goldsten; and where canceled checks do
18 show that others came from Mr. Goldsten, only Mr.
19 Sanni's testimony supports the idea that they were
20 loan proceeds (as opposed to taxable payments for
21 services, of which the evidence includes several
22 examples).

23 Except for the \$4,000 loan from NE Hunt
24 Plant, Inc., and the \$10,000 draw from James
25 Schneider, Mr. Sanni did not credibly explain and

1 substantiate that any of the disputed deposits were
2 loan proceeds or from any other non-taxable source.
3 We therefore hold that they were taxable income.

4 II. Interest on loan payoff

5 At trial Mr. Sanni conceded that he paid
6 off his loan from Mr. Goldsten (then totaling
7 \$629,461) by having the proceeds from two real estate
8 sales paid directly to Mr. Goldsten. Mr. Sanni
9 seemed to concede, through counsel, that this payoff
10 constituted taxable income to him -- as it certainly
11 does -- but he contended that he was entitled to a
12 deduction of the interest component (i.e., \$118,631).
13 Respondent then conceded that this amount did
14 constitute interest and was deductible from Mr.
15 Sanni's income. The computation of Mr. Sanni's
16 liability should incorporate these concessions.

17 So that the liability can be recalculated,
18 decision will be entered pursuant to Rule 155.

19 This concludes the Court's oral Findings of
20 Fact and Opinion in this case.

21 (Whereupon, at 2:27 p.m., the above-
22 entitled matter was concluded.)
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